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BY ECF

Honorable Paul E. Davison
United States Magistrate Judge
300 Quarropas Street
White Plains, New York 10601

Re: DiBerardino v. The Village of Mamaroneck, et al.
14 Civ. 1804 (PED)

Dear Judge Davison:

I am writing this letter in response to Ms. Weber's letter to Your Honor today. I feel it is necessary to point out that any alleged short notice to the Doctor is solely as a result of plaintiff's counsel's conduct in holding onto the doctor's report for over one month before serving it knowing that trial was scheduled in January. Mr. Grainger did not receive the new expert report until December 13th and immediately contacted the Court.

After our telephone conference with Your Honor, we proposed a number of dates before January 10th and it was not until today that Mr. Berkowitz advised that Dr. Mandelbaum would ONLY be available on the afternoon of January 8th. Prior to today's conversation, Mr. Berkowitz and I had agreed that the deposition would be conducted in downtown White Plains if he chose January 8th since I have a Court appearance I must attend in the morning. Today, Mr. Berkowitz claimed that the doctor will not be produced until 1:00 pm at his office in lower Manhattan.

Since any delay in this matter can only be attributed to the plaintiffs, defendants should not be forced to adjust their Court schedules and travel to lower Manhattan despite the fact that this matter is pending in White Plains. Therefore, it is respectfully requested that the Court direct Dr. Mandelbaum to appear for his deposition on January 8th at 1:00 pm in White Plains. Should the Court be inclined to accommodate the plaintiffs, then I would respectfully request that t Dr. Mandelbaum be produced in our midtown Manhattan office at 1:00 pm on January 8th.

Respectfully,

Roula Theofanis

Roula Theofanis (RT 3240)

RT/lmr

cc: Rose M. Weber, Esq. (by ECF)
Edmund C. Grainer, III, Esq. (by ECF)

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